

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB -LFG

RIO CHAMA STREAM SYSTEM
Section 1, Chama Mainstream

Subfile No. 194

MOTION FOR SUBSTITUTION OF PARTIES

Pursuant to Fed. R. Civ. P. 25(a)(1), the Plaintiff State of New Mexico, *ex rel.* State Engineer moves the Court to substitute the ESTATE OF REBECCA A. SERNA, JANE SERNA, ANNADELLE SANCHEZ and BETTY NORRIS for defendants BEN E. SERNA, JACOBO SERNA, JOSE SERNA, PEDRO E. SERNA and PILAR SERNA in these proceedings with respect to the water rights appurtenant to Tracts 23.22 and 23.22A in Subfile 194 in the Chama Mainstream Section, and in support of this motion states the following:

1. Using the records of the Rio Arriba County Clerk and the Rio Arriba County Assessor's Office, the State has determined that the current owners of record of various portions of Tracts 23.22 and 23.22A in Section 1 of the Rio Chama Stream System are Benjamin Serna a/k/a Ben E. Serna (deceased), and Jane Serna, Annadelle Sanchez, Betty Norris and Leopoldo Serna. The water rights appurtenant to Tracts 23.22 and 23.22A were described in the subfile order for defendants Ben E. Serna, Jacobo Serna, Jose Serna, Leopoldo Serna, Pedro E. Serna and Pilar Serna filed with the Court on August 7, 1969 (Doc. No. 107) (Subfile 194). Xavier Serna, the son of Benjamin Serna,

has informed the State that Rebecca A. Serna (deceased), was the sole heir of Benjamin Serna.¹

2. Pursuant to the Order filed August 25, 2011 (Doc. No. 10537), the Estate of Rebecca A. Serna, Jane Serna, Annadelle Sanchez, and Betty Norris should be substituted for Ben E. Serna, Jacobo Serna, Jose Serna, and Pedro E. Serna and Pilar Serna in these proceedings, and served with the Court's notice/order to show cause with respect to the State's proposed priority date for the water rights appurtenant to Tracts 23.22 and 23.22A. Leopoldo Serna (an original subfile defendant) is also a current owner of the a portion of these tracts and should be served with the Court's notice/order to show cause. A proposed form of notice/order to show cause to be served upon the Estate of Rebecca A. Serna, Jane Serna, Annadelle Sanchez, Betty Norris and Leopoldo Serna will be submitted to the Court for review and approval following substitution of parties.

3. Although the subfile order for defendants Ben E. Serna, Jacobo Serna, Jose Serna, Leopoldo Serna, Pedro E. Serna and Pilar Serna in Subfile 194 filed with the Court did not include the hydrographic survey map and tract information for the lands described in the order, there is no need to correct the original subfile order to include this information. In addition, although Tracts 23.22 and 23.22A have been subdivided and reconfigured since the entry of the original subfile order, it is not necessary for the State to attempt a remapping of the reconfigured tracts. The Hydrographic Survey and Mapping Bureau of the Office of the State Engineer has confirmed that the 20.58 acre irrigated parcel described in the original subfile order includes both Tract 23.22 (14.77 acre) and Tract 23.22A (5.81 acres) of the State Engineer's hydrographic survey, and that the heirs of Benjamin Serna, Jane Serna, Annadelle Sanchez, Betty Norris and Leopoldo Serna, are the apparent current owners

¹ Rebecca A. Serna, the wife and sole heir of Benjamin Serna a/k/a Ben E. Serna, passed away in 2009. Their son, Xavier E. Serna, has been appointed the personal representative for her estate. The probate of this estate is still open.

of some portion of both of these tracts.

WHEREFORE the State of New Mexico requests the Court to enter its order substituting the Estate of Rebecca A. Serna, Jane Serna, Annadelle Sanchez and Betty Norris for defendants Ben E. Serna, Jacobo Serna, Jose Serna, Pedro E. Serna and Pilar Serna in these proceedings with respect to the water rights appurtenant to Tract 23.22 and 23.22A in Subfile 194. Leopoldo Serna remains a defendant with respect to these water rights as well.

Respectfully submitted,

/s/ Ed Newville
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7nd day of September 2011 I filed the foregoing electronically through the CM/ECF system which caused the parties listed on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail, and served the following non-CM/ECF Participants in the manner indicated:

via first class mail, postage prepaid addressed as follows:

Estate of Rebecca A. Serna
Xavier E. Serna, PR
704 Turner NE
Albuquerque, NM 87123

Jane Serna
P.O. Box 482
Española, NM 87532

Annadelle Sanchez
P.O. Box 482
Española, NM 87532

Betty Norris
P.O. Box 482
Española, NM 87532

Leopoldo Serna
P.O. Box 482
Española, NM 87532

/s/ Ed Newville
EDWARD G. NEWVILLE